



Committee on Education Appropriations

**Monday, April 17, 2006
3:00 p.m. - 4:00 p.m.
212 Knott**



Florida House of Representatives

Fiscal Council
Education Appropriations Committee

Allan Bense
Speaker

Joe Pickens
Chair

Agenda

Date: Monday, April 17, 2006

Location: 212 Knott Building

Time: 3:00 p.m. – 4:00 p.m.

- I. Call to Order
- II. Opening Remarks
- III. Consideration of the following bill(s):
 - a. **HB 119 CS** Determination of Resident Status for Tuition Purposes by Zapata
 - b. **HB 665** Florida Virtual School by Troutman
 - c. **HB 7117** Sexual Predators and Offenders by Criminal Justice Committee, Dean, Kravitz
- IV. Closing Remarks
- V. Adjournment

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 119 CS Higher Education Finance
SPONSOR(S): Zapata and others
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Colleges & Universities Committee	9 Y, 1 N, w/CS	Hatfield	Tilton
2) Education Appropriations Committee		Hamon	Hamon
3) Education Council			
4) _____			
5) _____			

SUMMARY ANALYSIS

This bill revises provisions relating to the determination of a student's residency status for tuition purposes.

The bill ties the statutorily-required minimum 12-month residency period to a student's initial enrollment in a Florida postsecondary institution and provides for reclassification as a resident for tuition purposes for students who meet certain criteria. The bill provides that in order to be classified a "dependent child" a student must receive at least 51 percent of the true cost-of-living expenses from his or her parent.

The bill requires institutions of higher education to determine whether or not an admitted applicant is a dependent child and whether or not an admitted Florida resident applicant continues to meet the residency requirements at the time of initial enrollment.

The bill clarifies that dependent children of active duty military families who are stationed near a community college or university in a county contiguous to Florida are eligible for residency for tuition purposes. The bill extends residency status to:

- full-time employees of specified international multilateral organizations based in Florida and their spouses and dependent children; and
- any student, other than a nonimmigrant alien within the meaning of federal law, who meets the following criteria:
 - Has resided in Florida with a parent for at least 3 consecutive years immediately preceding the date the student received a high school diploma or its equivalent.
 - Has attended a Florida high school for at least 3 consecutive years during such time.
 - Has filed an affidavit with the institution of higher education stating that the student has filed an application to legalize his or her immigration status or will file such application as soon as he or she is eligible to do so.

The overall fiscal impact of the bill is indeterminate at this time. See FISCAL COMMENTS for further details.

The bill provides an effective date of July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government—The bill requires postsecondary institutions to affirmatively determine whether a student is a dependent child and whether or not a student granted Florida residency meets the requirements of s. 1009.21, F.S., at the time of initial enrollment. Additional responsibilities and administrative costs may be incurred by postsecondary institutions in order to accomplish these tasks.

Empower Families—The bill expands the categories of students who may be classified as residents for tuition purposes. Those who previously could not afford a postsecondary education may now be eligible for in-state tuition, providing a more affordable education. However, the revised conditions for determining initial enrollment and reclassification may increase the number of students not eligible for residency for tuition purposes, resulting in a more expensive education for others.

B. EFFECT OF PROPOSED CHANGES:

Background

Current law requires students to be classified as residents or nonresidents for the purpose of assessing tuition in community colleges and state universities.¹ Classification as a resident for tuition purposes is also an eligibility criteria for participation in certain financial assistance programs such as the Florida Bright Futures Scholarship Program, the Florida Student Assistance Grant (FSAG) Program, and the Florida Resident Assistance Grant (FRAG) Program.²

To qualify as a resident for tuition purposes, a student, or the student's parents if the student is a dependent, must have established legal residence in the state and maintained legal residence in the state for at least 12 months immediately prior to the student's qualification. Presence in the state must have been for the purpose of maintaining a bona fide domicile, rather than for the purpose of maintaining a mere temporary residence or abode incident to enrollment in an institution of higher education.

Current law designates certain categories of persons as residents for tuition purposes, such as active duty members of the Armed Services of the U.S. residing or stationed in Florida and their dependents, U.S. citizens living on the Isthmus of Panama who have completed 12 consecutive months of college work at the FSU Panama Canal Branch and their dependents, and active duty members of a foreign nation's military who are serving as liaison officers and are residing or stationed in this state and their dependents.³

Undocumented aliens, with certain exceptions as provided in federal law, may not establish legal residence in the state for tuition purposes because their residency in the state is in violation of federal law, as they have not been properly admitted into the United States.⁴ Undocumented aliens are accordingly classified as nonresidents for tuition purposes. Many of these undocumented aliens attend Florida high schools and obtain a high school diploma or the equivalent, as the state may not bar these individuals from attending elementary, middle, or secondary schools.⁵ Due to the increased cost of

¹ Section 1009.21, F.S.

² Section 1009.40, F.S.

³ Section 1009.21(10), F.S.

⁴ Most undocumented aliens, absent a change in federal law or a grant of amnesty, would not qualify for permanent residency.

⁵ See Plyler v. Doe, 457 U.S. 202, 102 S. Ct. 2382, 72 L.Ed.2d 786 (1982).

attending a public postsecondary institution as a nonresident, these students may not be able to pursue their education at the postsecondary level.

Nonimmigrant aliens, as defined in 8 U.S.C. s. 1101(a)(15), are aliens lawfully admitted into the U.S. but whose duration of stay is set forth in the applicable visa under which admittance is granted. These classes include, among others, foreign diplomats and their dependents, temporary business or tourist visitors, crew of merchant vessels and civil aircraft, and foreign students having *bona fide* residences abroad that they do not intend to abandon. Most nonimmigrant visas, but not all, require the holder of the visa to intend to return to the nonimmigrant's country of residence upon termination of the visa. Students under an F-1 visa or an M-1 visa are required to intend to return to their country of residence. If a nonimmigrant stays beyond the limitations of the visa, the nonimmigrant is no longer lawfully within the U.S. and may be subject to deportation.⁶

OPPAGA Recommendations Regarding Residency for Tuition Determinations

OPPAGA Report No. 03-29⁷ found that although Florida law and rules are intended to enable universities and community colleges to accurately and consistently classify students for in-state and out-of-state residency, the process is substantially flawed. OPPAGA found that institutions were using inconsistent screening criteria and procedures creating the potential for misclassifications and variations in the threshold a student must meet to qualify for residency. OPPAGA identified three costly weaknesses in the current criteria and procedures used in classifying students as residents for tuition purposes:

1. Current law and rules do not provide adequate criteria governing under what specific circumstances students should be reclassified as Florida residents.
2. Current criteria do not adequately specify the determination of students' dependency status.
3. Institutions are applying varying standards for documenting residency.

The report recommends that to improve the residency classification process, the Legislature should amend current law to require that students (or their parents if the students are dependents) must maintain legal residence in the state for at least 12 months immediately prior to the student's initial enrollment or registration at a Florida public postsecondary institution to be eligible for classification for in-state residency. OPPAGA also recommended that Legislature more clearly define when a non-resident student could be eligible for reclassification as a resident.

OPPAGA estimates that institutions could receive an additional \$28.2 million in tuition revenues from out-of-state students if reclassifications were eliminated and these individuals remained enrolled.

Effect of Proposed Changes

The bill revises residency criteria to require that a person reside in-state for 12 months immediately prior to initial enrollment in a postsecondary education program in Florida. The term "initial enrollment" is defined as the first day of classes. A student is eligible to be reclassified from nonresident to resident if the student provides documentation that supports the student's permanent residency in the state such as documentation of permanent full-time employment for a minimum of 12 months or purchase of a home in this state and residence in said home for a minimum of 12 months. If the student is a dependent child, the residency requirements apply to the student's parent. The bill provides that to be classified a "dependent child" one must receive at least 51 percent of the true cost-of-living expenses from his or her parent.

⁶ See <http://uscis.gov/graphics/services/tempbenefits/index.htm>, U.S. Citizenship and Immigration Services, Temporary Visitors.

⁷ Report 03-29, OPPAGA Special Review, *Non-Residents Qualify Too Easily for Much Lower Resident Tuition Rates*

The bill requires institutions of higher education to determine whether or not an admitted applicant is a dependent child and whether or not an admitted Florida resident applicant continues to meet the residency requirements at the time of initial enrollment.

The bill clarifies that dependent children of active duty military families who are stationed near a community college or university in a county contiguous to Florida are eligible for residency for tuition purposes.

The bill updates an obsolete reference to the North American Aerospace Defense Command (NORAD) agreement.

The bill extends the categories of persons that are classified as residents for tuition purposes to include full-time employees of international multilateral organizations based in Florida that are recognized by the U.S. Department of State and their spouses and dependent children. In March 2005, the Director of the Florida Branch of the Office of Foreign Missions indicated that the International Organization for Migration is the only international multilateral organization currently based in Florida. The Office of Foreign Missions is a department within the U.S. Department of State. At that time, it was estimated that there were currently less than ten people who might qualify under this provision of the bill.⁸

The bill also extends the categories of persons that are classified as residents for tuition purposes to include a student, other than a nonimmigrant alien within the meaning of Title 8 U.S.C. § 1101(a)(15), who meets the following criteria:

- Has resided in Florida with a parent for at least 3 consecutive years immediately preceding the date the student received a high school diploma or its equivalent.
- Has attended a Florida high school for at least 3 consecutive school years during such time.
- Has filed an affidavit with the institution of higher education stating that the student has filed an application to legalize his or her immigration status or will file such application as soon as he or she is eligible to do so.

The bill provides an effective date of July 1, 2006.

C. SECTION DIRECTORY:

Section 1: Amends s. 1009.21, F.S., revising provisions relating to determination of resident status for tuition purposes; revising definitions; tying the qualification period for determining residency to the student's initial enrollment in a postsecondary education program in Florida; providing conditions for reclassification as a resident for tuition purposes; requiring that evidence be provided relating to legal residency and dependent status; providing duties of institutions of higher learning; updating obsolete terminology; and providing additional categories within which students may be classified as residents for tuition purposes.

Section 2: Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See FISCAL COMMENTS section.

2. Expenditures:

See FISCAL COMMENTS section.

⁸ Florida Department of Education 2005 Legislative Bill Analysis, HB 119, March 1, 2005, at 6.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

The bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Students who, in the past, may have been unable to afford a postsecondary education will have expanded educational opportunities if they fall into one of the two new categories within which students may be classified as residents for tuition purposes. However, the revised conditions for determining initial enrollment and reclassification may increase the number of students not eligible for residency for tuition purposes, resulting in a more expensive education for others.

D. FISCAL COMMENTS:

OPPAGA has estimated that if Florida eliminated the reclassification of nonresident students completely, institutions could receive \$28.2 million in additional tuition revenue from nonresidents if these individuals remained enrolled at a Florida public postsecondary institution.⁹

Expanding the categories of students who may be classified as residents for tuition purposes may increase the number of students who enroll in state universities and community colleges because of the reduced cost to such students; therefore, these institutions may experience an increase in tuition and fee revenues. However, to the extent a student may have attended a state university or community college even if classified as an out-of-state student; an institution could experience a loss in tuition and fee revenues. Expanding the categories of students who may be classified as residents for tuition purposes could also result in the state funding more of the cost to provide instruction to such students.

The fiscal impact of the additional two new residency for tuition purposes categories on funding required or award amount for programs such as Bright Futures, FSAG, and FRAG is indeterminate.

The bill requires postsecondary institutions to affirmatively determine whether a student is a dependent child and whether or not a student granted Florida residency meets the requirements of s. 1009.21, F.S., at the time of initial enrollment. Additional responsibilities and administrative costs may be incurred by postsecondary institutions in order to accomplish these tasks.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a municipality or county to spend funds or to take any action requiring the expenditure of funds.

2. Other:

The U.S. Constitution provides the Federal Government with preeminent power over the regulation of aliens within the U.S.¹⁰ Any state action that imposes discriminatory burdens upon the entrance or residence of aliens lawfully admitted into the U.S. conflicts with the Supremacy Clause of the U.S.

⁹ Report 03-29, OPPAGA Special Review, *Non-Residents Qualify Too Easily for Much Lower Resident Tuition Rates*

¹⁰ See *Takahashi v. Fish & Game Commission*, 334 U.S. 410, 418-420, 68 S.Ct. 1138, 1142-1143, 92 L.Ed. 1478 (1948).

Constitution.¹¹ The bill specifically excludes certain nonimmigrant aliens from meeting eligibility requirements for establishing residency for tuition purposes. In *Toll v. Moreno*,¹² a Maryland statute was struck down on Supremacy Clause concerns when the law categorically prohibited G-4 nonimmigrant aliens from acquiring in-state status for tuition purposes. G-4 nonimmigrant visa holders are not required to have intent to return to their country of residence. Unlike the Maryland law, the bill does not categorically prohibit a nonimmigrant alien from qualifying for residency; it provides only that a nonimmigrant may not qualify under the specific criteria outlined in the bill. There still remains a concern that the bill may be challenged because of the limitation on the ability of lawfully admitted nonimmigrant aliens to obtain in-state tuition status.

The bill authorizes any student to qualify for residency for tuition purposes if the student meets specified criteria. Accordingly, 8 U.S.C. s. 1623, which bars any alien who is unlawfully present in the United States from receiving any postsecondary education benefit on the basis of residence in the state unless a U.S. citizen or national is eligible for such benefit in the same amount, duration, and scope, would not be applicable.

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill provides that a "dependent child" receive at least 51 percent of the true cost-of-living expenses from his or her parent, as further defined in rules of the State Board of Education. "True cost-of-living expenses" may be problematic terminology as there is no set definition for what expenses this entails.

History of Similar Legislation in other States and the Federal Government

Nine other states have a similar law that provides students, who meet certain criteria, with an in-state tuition classification. These states are: California, Texas, New York, Utah, Washington, Illinois, Oklahoma, Kansas, and New Mexico. The laws differ slightly between the states, as some statutes offer state financial aid benefits along with the tuition classification, while other statutes are purely for tuition purposes. Currently, federal law prohibits illegal immigrant students from receiving federal loans and grants; work-study jobs are also prohibited.

After the Kansas legislation was signed into law in May 2004, a lawsuit was filed in the United States District Court of Kansas¹³ charging that the new law violated the U.S. Constitution's Equal Protection clause of the 14th Amendment¹⁴ and 1996 immigration laws.¹⁵ The lawsuit, the first of its kind, argued that the Kansas statute violated the federal law that prohibits states from giving public benefits to immigrants who are in the country illegally and was discriminatory to out-of-state students who pay a higher tuition rate. The plaintiffs were all students from out of state attending Kansas universities claiming that they had been denied the same in-state tuition benefits afforded to illegal immigrants. On July 5, 2005, the Court held that the students lacked standing under both the federal statute prohibiting states from offering in-state tuition to illegal aliens and the Equal Protection Clause.¹⁶

A lawsuit was filed in California in December 2005, challenging 2001 state legislation that provides students, who meet certain criteria, with an in-state tuition classification. A group of out-of-state students and parents filed the class-action lawsuit against California's public university and community college systems.

A proposal in the U.S. Congress may also affect states that provide in-state tuition without regard to immigration status. The Development, Relief, and Education for Alien Minors (DREAM) Act, was first

¹¹ *Id.*

¹² *Toll v. Moreno*, 458 U.S. 1, 17, 102 S.Ct. 2977, 2986, 73 L.Ed.2d 563 (1982).

¹³ *Day v. Sebelius*, 376 F. Supp.2d 1022 (D. Kan. 2005).

¹⁴ U.S. Const. amend. XIV, § 1.

¹⁵ 8 U.S.C. 1621 and 8 U.S.C. 1623

¹⁶ *Day v. Sebelius*, 376 F. Supp.2d 1022, 1040 (D. Kan. 2005).

introduced in 2003 and again introduced in 2004; however, Congress recessed without taking action on the Act. In November 2005, the DREAM Act was introduced as S. 2075, giving new life to the legislation.

The DREAM Act would enact two major changes in current law: eliminate the federal provision that discourages states from providing in-state tuition without regard to immigration status and permit some immigrant students who have grown up in the U.S. to apply for legal status.¹⁷ If passed it would provide illegal immigrants in the U.S. the ability to sustain legal status if they graduated from high school, attended at least two years of college or spent two years in the military, and stayed out of trouble. Those students who live in the U.S. for at least five years would also be eligible for federal financial aid.¹⁸ The DREAM Act would permit qualified students to become temporary legal residents, putting them on a path to permanent legal status.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 7, 2006, the Colleges and Universities Committee adopted a strike-all amendment to HB 119. The bill was reported favorably with a Committee Substitute (CS). The CS differs from the original bill in the following ways:

- Removes the word "exemption" from the catch-line to correct a drafting error.
- Includes an affidavit requirement for undocumented students that meet the eligibility requirements for residency for tuition purposes.
- Removes the financial aid section from the bill.

¹⁷ National Immigration Law Center, *Immigrants' Rights Update: Immigrant Student Adjustment and Access to Higher Education*, Vol. 17, No. 5, September 4, 2003.

¹⁸ Matthew Hansen, *Tuition relief for illegal immigrants?*, Lincoln Journal Star, January 19, 2005.

HB 119

2006
CS

CHAMBER ACTION

The Colleges & Universities Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to determination of resident status for tuition purposes; amending s. 1009.21, F.S.; revising definitions; providing conditions for reclassification as a resident for tuition purposes; requiring that evidence be provided relating to legal residency and dependent status; providing duties of institutions of higher education; updating obsolete terminology; providing additional categories within which students may be classified as residents for tuition purposes; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsections (1), (2), and (3) and paragraphs (b) and (j) of subsection (10) of section 1009.21, Florida Statutes, are amended, and paragraphs (l) and (m) are added to subsection (10) of that section, to read:

HB 119

2006
CS

23 1009.21 Determination of resident status for tuition
24 purposes.--Students shall be classified as residents or
25 nonresidents for the purpose of assessing tuition in community
26 colleges and state universities.

27 (1) As used in this section, the term:

28 (a) ~~The term~~ "Dependent child" means any person, whether
29 or not living with his or her parent, who is eligible to be
30 claimed by his or her parent as a dependent under the federal
31 income tax code and who receives at least 51 percent of the true
32 cost-of-living expenses from his or her parent, as further
33 defined in rules of the State Board of Education.

34 (b) "Initial enrollment" means the first day of class at
35 an institution of higher education.

36 (c)(b) ~~The term~~ "Institution of higher education" means
37 any public community college or state university.

38 (d)(e) A "Legal resident" or "resident" means is a person
39 who has maintained his or her residence in this state for the
40 preceding year, has purchased a home which is occupied by him or
41 her as his or her residence, or has established a domicile in
42 this state pursuant to s. 222.17.

43 (e) "Nonresident for tuition purposes" means a person who
44 does not qualify for the in-state tuition rate.

45 (f)(d) ~~The term~~ "Parent" means the natural or adoptive
46 parent or legal guardian of a dependent child.

47 (g)(e) A "Resident for tuition purposes" means is a person
48 who qualifies as provided in subsection (2) for the in-state
49 tuition rate; ~~a "nonresident for tuition purposes" is a person~~
50 ~~who does not qualify for the in state tuition rate.~~

HB 119

2006
CS

(2)(a) To qualify as a resident for tuition purposes:

1. A person or, if that person is a dependent child, his or her parent or parents must have established legal residence in this state and must have maintained legal residence in this state for at least 12 consecutive months immediately prior to his or her initial enrollment in an institution of higher education ~~qualification~~.

2. Every applicant for admission to an institution of higher education shall be required to make a statement as to his or her length of residence in the state and, further, shall establish that his or her presence or, if the applicant is a dependent child, the presence of his or her parent or parents in the state currently is, and during the requisite 12-month ~~qualifying~~ period was, for the purpose of maintaining a bona fide domicile, rather than for the purpose of maintaining a mere temporary residence or abode incident to enrollment in an institution of higher education.

(b) However, with respect to a dependent child living with an adult relative other than the child's parent, such child may qualify as a resident for tuition purposes if the adult relative is a legal resident who has maintained legal residence in this state for at least 12 consecutive months immediately prior to the child's initial enrollment in an institution of higher education ~~qualification~~, provided the child has resided continuously with such relative for the 5 years immediately prior to the child's initial enrollment ~~qualification~~, during which time the adult relative has exercised day-to-day care, supervision, and control of the child.

HB 119

2006
CS

(c) The legal residence of a dependent child whose parents are divorced, separated, or otherwise living apart will be deemed to be this state if either parent is a legal resident of this state, regardless of which parent is entitled to claim, and does in fact claim, the minor as a dependent pursuant to federal individual income tax provisions.

(d) A person who is classified as a nonresident for tuition purposes may become eligible for reclassification as a resident for tuition purposes if that person or, if that person is a dependent child, his or her parent presents documentation that supports permanent residency in this state rather than temporary residency for the purpose of pursuing an education, such as documentation of full-time permanent employment for the previous 12 months or the purchase of a home in this state and residence therein for the prior 12 months. If a person who is a dependent child and his or her parent move to this state while such child is a high school student and the child graduates from a high school in this state, the child may become eligible for reclassification as a resident for tuition purposes when the parent qualifies for permanent residency.

(3) (a) An individual shall not be classified as a resident for tuition purposes and, thus, shall not be eligible to receive the in-state tuition rate until he or she has provided such evidence related to legal residence and its duration or, if that individual is a dependent child, documentation of his or her parent's legal residence and its duration, as well as documentation confirming his or her status as a dependent child, as ~~may be~~ required by law and by officials of the institution of

HB 119

2006
CS

higher education from which he or she seeks the in-state tuition rate.

(b) Each institution of higher education must:

1. Determine whether an applicant who has been granted admission to that institution is a dependent child.

2. Affirmatively determine that an applicant who has been granted admission to that institution as a Florida resident meets the residency requirements of this section at the time of initial enrollment.

(10) The following persons shall be classified as residents for tuition purposes:

(b) Active duty members of the Armed Services of the United States, and their spouses and dependent children, ~~dependents~~ attending a public community college or state university within 50 miles of the military establishment where they are stationed, if such military establishment is within a county contiguous to Florida.

(j) Active duty members of the Canadian military residing or stationed in this state under the North American Aerospace Defense Command Air-Defense (NORAD) agreement, and their spouses and dependent children, attending a community college or state university within 50 miles of the military establishment where they are stationed.

(l) Full-time employees of international multilateral organizations based in Florida that are recognized by the United States Department of State and their spouses and dependent children.

HB 119

2006
CS

(m) A student, other than a nonimmigrant alien within the meaning of 8 U.S.C. s. 1001(a)(15), who meets the following criteria:

1. Has resided in Florida with a parent for at least 3 consecutive years immediately preceding the date the student received a high school diploma or its equivalent.

2. Has attended a Florida high school for at least 3 consecutive school years during such time.

3. Has filed an affidavit with the institution of higher education stating that the student has filed an application to legalize his or her immigration status or will file such application as soon as he or she is eligible to do so.

Section 2. This act shall take effect July 1, 2006.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 01

Bill No. 119 CS

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

Council/Committee hearing bill: Education Appropriations
Committee

Representative Zapata offered the following:

Amendment (with directory and title amendments)

Remove line(s) 134- 145 and insert:

Section 2. Section 1009.255, Florida Statutes, is created
to read:

1009.255 Out-of-state fee exemption.--

(1) A student who meets all of the following requirements
may be eligible for an exemption from paying out-of-state fees
assessed pursuant to s. 1009.22, s. 1009.23, or s. 1009.24:

(a) The student resided in Florida with a parent for at
least 3 consecutive years immediately preceding the date the
student received a high school diploma, or its equivalent, and
attended a Florida public high school for at least 3 consecutive
school years during such time.

(b) The student is accepted by and enrolls in a community
college or state university within 12 months of receiving the
high school diploma or its equivalent.

000000

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 01

21 (c) The student submits an application for the exemption
22 to the Department of Education in the manner prescribed by the
23 department by the deadline established by the department.

24 (2) (a) For the 2006-2007 academic year, the department
25 shall distribute the exemptions in the following manner:

26 1. To the first 1,500 students currently enrolled in a
27 community college or state university with a cumulative grade
28 point average of at least 2.0 who submit an application to the
29 department and meet the criteria in subsection (1)

30 2. To the top 500 students in academic performance in
31 Florida public high schools who submit an application to the
32 department and meet the criteria in subsection (1).

33 (b) Beginning with the 2007-2008 academic year, the
34 Department of Education shall issue no more than 500 new
35 exemptions per year to the top 500 students in academic
36 performance in Florida public high schools who submit an
37 application to the department and meet the criteria in
38 subsection (1).

39 (c) In order to retain the exemption, a student must
40 complete at least 12 semester credit hours or the equivalent in
41 the previous academic year and maintain at least a 2.0
42 cumulative grade point average.

43 (3) (a) The Department of Education shall administer the
44 exemption program, develop an application form, and establish
45 deadlines and guidelines for student participation.

46 (b) The department shall issue the exemptions by August 31
47 of each year and shall notify the student and the community
48 college or state university in which the student is enrolled.

49 (4) The exemption may not be used for remedial courses,
50 graduate-level courses, or professional-level courses.

000000

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 01

51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67

===== D I R E C T O R Y A M E N D M E N T =====

Remove line(s) 21-22 and insert:
Statutes, are amended, and paragraph (1) is added to subsection
(10) of that section, to read:

===== T I T L E A M E N D M E N T =====

Remove line(s) 12-14 and insert:
education; updating obsolete terminology; classifying as
residents for tuition purposes certain employees of
international multilateral organizations; creating s. 1009.255,
F.S.; providing an out-of-state fee exemption; providing
eligibility criteria; providing for distribution of the
exemption; limiting participation in the program; requiring the
Department of Education to administer the exemption program;
prohibiting use of the exemption for certain purposes; providing
an

HB 665

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 665
SPONSOR(S): Troutman
TIED BILLS:

Florida Virtual School

IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Choice & Innovation Committee</u>	<u>7 Y, 0 N</u>	<u>Hunker</u>	<u>Kooi</u>
2) <u>Education Appropriations Committee</u>	<u></u>	<u>Eggers</u>	<u>Hamon</u>
3) <u>Education Council</u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

This bill amends s. 1002.37, F.S., to establish the Students Earning Additional Recovery Credits and Honors (SEARCH) Program within the Florida Virtual School (FLVS). Students can recover credits needed for graduation or earn honors course credit or other course credit through the SEARCH Program.

This bill provides that school district franchises of the Florida Virtual School that operated during the fiscal years 2004-2005 and 2005-2006 are eligible to participate and that a school district franchise's portion of the SEARCH Program funds may not exceed the district's proportion of the total unweighted full-time equivalent students enrolled in grades 9 through 12 in the participating school districts.

The bill states that funding for the SEARCH Program will be for full-time equivalent student credit to the extent provided by the General Appropriations Act (GAA) at a maximum of two credits per student. See the FISCAL COMMENTS Section of the analysis.

The bill provides that it shall take effect July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Empower Families – The bill provides parents of public school students with an educational choice opportunity by providing funding for up to an additional 2 credits that may be used through the Florida Virtual School to recover credits needed for graduation, or to receive honors course credit, or other course credit.

Safeguard Individual Liberty – This bill maintains parental choice by providing parents of public school students with an additional education opportunity.

B. EFFECT OF PROPOSED CHANGES:

The Florida Legislature initially funded a grant-based pilot project in 1997, creating Florida's first Internet-based, public high school. In 2000, s. 228.082, F.S.¹ established the Florida Virtual School (FLVS) as an independent educational entity housed within the Commissioner of Education's Office of Technology and Information Services. The Legislature created the FLVS Board of Trustees, which was authorized to create rules and procedures for the FLVS, enter into agreements with distance learning providers, and acquire, enjoy, use, and dispose of patents, trademarks, copyrights, licenses, rights and interests.

In 2003, the legislature authorized the FLVS Board of Trustees to franchise with district school boards. The FLVS Board of Trustees is authorized to establish the criteria for defining the elements of an approved franchise, the terms and conditions governing franchise agreements, and the performance and accountability measures for a school district franchise. The board of trustees is required to report the performance of each school district to the Commissioner of Education.²

School districts are authorized to count a maximum full-time equivalent (FTE) of 25 hours per week under the Florida Education Finance Program (FEFP).³ School district franchises do not receive additional funding for students to take classes through the FLVS in addition to all of the other classes they take at their regular public school. In order to take a course through the FLVS, students at district franchise schools are required to reduce their class loads at their regular public schools in order to meet the 25 hour per week FTE cap. This bill provides funding for students to take up to an additional 2 credits through the FLVS without reducing their normal class load at their regular public school.

School districts that operated a franchise for the 2004-2005 and 2005-2006 fiscal years will be eligible to participate in the SEARCH Program in 2006-2007 and thereafter. This provision limits the program to the seven school district franchises currently in existence.⁴ This limitation would test the fiscal impact of the SEARCH Program as a pilot before future school district franchises are permitted to participate. It would also prevent school districts from entering into FLVS franchise agreements solely for the purpose of taking advantage of the SEARCH Program.

The bill states that only the following types of credits may be earned through the SEARCH Program:

¹ Recodified at s. 1002.37, F.S.

² Section 1002.37(2)(i), F.S.

³ The 25 hours per week maximum articulated in this bill is the same as the 1.00 FTE maximum for grades 4-12, and consists of 900 hours of instruction per 180 day school year.

⁴ The seven current school district franchises are: Brevard, Broward, Dade, Hillsborough, Okaloosa, Pasco, and Polk.

- Replacement credits needed for graduation;⁵
- Honors credits;
- Other course credit that would not otherwise be available to the student at their regular public school;⁶
- Credits for classes taken to help students scoring in the lower levels on the FCAT;
- Credits for classes taken by homebound students; and
- Credits for classes taken by students currently assigned to a Department of Juvenile Justice facility.

This bill limits the number of credits that an individual student may earn in the SEARCH Program to two. It also states that a school district's portion of the program funds may not exceed the district's portion of the total unweighted full-time equivalent (FTE) students enrolled in grades 9 through 12 in the participating school districts. This would help ensure that each of the districts could participate in proportion to their size.

C. SECTION DIRECTORY:

Section 1: Amends s. 1002.37, F.S., relating to the FLVS; creates the Students Earning Additional Recovery Credits and Honors (SEARCH) Program within the Florida Virtual School; provides for funding for the SEARCH Program; provides eligibility requirements for school district franchises; lists the types of credits which may be earned through the SEARCH program; limits funding to two credits per student; limits the total funding a school district franchise may receive through the SEARCH Program.

Section 2: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to impact state government revenues.

2. Expenditures:

See FISCAL COMMENTS section.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to impact local government revenues.

2. Expenditures:

The bill does not appear to impact local government expenditures.

⁵ A "replacement credit" is a credit for a class that a student did not receive a passing grade. The student may use the SEARCH Program to retake the class and earn the credit if it is needed for graduation.

⁶ "Other course [credit] that would not otherwise be available to a student" means credit for advanced courses that a student may need to get into a particular program in college or other honors or advanced placement courses that are not available in their regular public school. It does not refer to other types of elective courses which are not part of a student's work toward a particular educational program or pathway.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The demand for the SEARCH Program and the cost to fully fund the program is indeterminate. The fiscal impact of this bill will be determined by the appropriation in the GAA. If the program were expanded to include all FLVS franchises and fully funded, the potential exists for the program to cost an additional \$10 to \$20 million.

The 1999 Legislature combined three funding streams to create the Supplemental Academic Instructional (SAI) Categorical for the purpose of providing district flexibility in the delivery of remedial, tutorial, drop out prevention, credit recovery and replacement courses, and other courses during the school year as well as during the summer. The funding streams were FTE funding for grades 9-12 summer school and dropout prevention programs, and the K-8 Summer School Categorical. To the extent that students enroll in replacement credits and remedial courses through the FLVS franchises, the courses are currently funded through the SAI. All school districts offer remedial and tutoring programs and many offer an optional seven period day. These programs are funded with SAI funds and discretionary FEFP funds.

District eligibility for participation in the SEARCH Program is limited to the seven districts that were FLVS franchises in the 2003-04 and 2005-06 fiscal years. Citrus and Marion are first year FLVS franchises in the 2005-06 fiscal year. Collier, Flagler, and Osceola, will be first year FLVS franchises in the 2006-07 fiscal year. Because these five districts were not franchises in the 2004-05 and 2005-06 fiscal years, they are excluded from participating in the SEARCH Program.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to expend funds.

This bill does not reduce the authority of counties or municipalities to raise revenues.

This bill does not reduce the percentage of a state tax shared with cities and counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled

2 An act relating to the Florida Virtual School; amending s.
3 1002.37, F.S.; establishing the Students Earning
4 Additional Recovery Credits and Honors (SEARCH) Program to
5 provide opportunities for students to recover credits
6 needed for graduation or to earn honors course credit or
7 other course credit; providing for payment for additional
8 full-time equivalent student credit to the extent funded
9 in the General Appropriations Act; providing eligibility
10 requirements for participation by a school district
11 operating a virtual school that is an approved franchise
12 of the Florida Virtual School; providing for use of funds;
13 providing a limitation on school district funding;
14 providing an effective date.

15
16 Be It Enacted by the Legislature of the State of Florida:

17
18 Section 1. Subsections (5), (6), and (7) of section
19 1002.37, Florida Statutes, are renumbered as subsections (6),
20 (7), and (8), respectively, and a new subsection (5) is added to
21 that section to read:

22 1002.37 The Florida Virtual School.--

23 (5) (a) There is established the Students Earning
24 Additional Recovery Credits and Honors (SEARCH) Program to
25 provide additional opportunities for students to recover credits
26 needed for graduation or to earn honors course credit or other
27 course credit.

HB 665

2006

(b) To the extent funded in the General Appropriations Act, the SEARCH Program shall pay for full-time equivalent student credit in addition to credit funded by the Florida Education Finance Program under subsections (3) and (4).

(c) School districts operating a virtual school that is an approved franchise of the Florida Virtual School as described in subsection (4) and that operated the franchise for the 2004-2005 and 2005-2006 fiscal years shall be eligible in the 2006-2007 fiscal year and thereafter to participate in the SEARCH Program.

(d) SEARCH Program funds earned by students enrolled in Florida Virtual School franchises as described in subsection (4) may only be used to pay for credits earned in excess of the 25 hours per week funded by the Florida Education Finance Program to:

1. Replace credits needed for graduation;
2. Earn credits in an honors level course or other course that would not be otherwise available to the student;
3. Serve students scoring at Level 1 or Level 2 on any subject tested on the FCAT;
4. Serve homebound students; or
5. Serve students currently assigned to a Department of Juvenile Justice facility.

(e) A student may not earn funding for more than two credits in the SEARCH Program.

(f) A school district's portion of the SEARCH Program funds may not exceed the district's portion of the total unweighted full-time equivalent students enrolled in grades 9 through 12 in the participating school districts.

HB 665

2006

56 Section 2. This act shall take effect July 1, 2006.

HB 7117

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7117 PCB CRJU 06-03 Sexual Predators and Offenders
SPONSOR(S): Criminal Justice Committee
TIED BILLS: **IDEN./SIM. BILLS:** SB 2512

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Criminal Justice Committee	8 Y, 0 N	Kramer	Kramer
1) Education Appropriations Committee		Eggers	Hamon
2) Justice Council			
3) _____			
4) _____			
5) _____			

SUMMARY ANALYSIS

During the 2005 session, HB 1877, known as the Jessica Lunsford Act, passed the legislature and was signed by the Governor on May 2, 2005. The bill had an effective date of September 1, 2005. Section 21 of the act amended section 1012.465, F.S. to require noninstructional contractual personnel who are permitted access on school grounds when students are present to meet level 2 screening requirements. After the legislative session, school districts and businesses contracting with school districts expressed concerns with this provision of the bill.

Currently, a sexual predator or a sexual offender is required to obtain a driver's license or identification card as a part of the registration process. The bill requires that all driver's licenses or identification cards issued or reissued to sexual predators or sexual offenders must have markings on the front of the card indicating the section of statute under which they are registered. The bill provides that it is unlawful for any person to have in his or her possession a driver's license or identification card upon which the sexual predator or sexual offender markings are not displayed or have been altered. A violation of this provision will be a third degree felony.

The bill provides that a sexual predator or sexual offender is not permitted to be on school grounds for business or employment purposes. The bill requires a person on school grounds for business or employment purposes (other than individuals otherwise required to undergo a federal and state criminal history check) to carry his or her driver's license or identification card and present it upon request. The bill provides that before allowing an employee to have access to school grounds, a contractor will be required to provide the school district with certification that the contractor has examined their employee's driver's license or identification card and confirmed that the driver's license or identification card does not indicate that the person is a sexual predator or sexual offender; and has checked the individual against the National Sex Offender Public Registry and confirmed that nothing in that registry requires that the individual be denied access to school grounds.

The bill authorizes a superintendent, on a case-by-case basis to require any authorized individual to undergo a fingerprint-based background screening and meet level 2 screening requirements and limits the amount of fees that a school district is permitted to charge for such screening. See Fiscal Comments section of this analysis.

The Department of Highway Safety and Motor Vehicles (DHSMV) provides two cost estimates to produce and mail the drivers' licenses and identification cards. One estimate is in the amount of \$87,405 with standard postage, and another estimate is in the amount of \$211,312 with return receipt postage. See the Fiscal Impact on State Government section of this analysis. The bill does not make an appropriation.

Except where otherwise provided, the bill has an effective date of July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government: The bill may limit the number of individuals who are required to undergo a state and federal criminal history check.

Safeguard individual liberty/Promote personal responsibility: The bill will require sexual predators and sexual offenders to have a marking on their driver's license or identification card indicating the section of statute under which they are registered.

B. EFFECT OF PROPOSED CHANGES:

Background

During the 2005 session, HB 1877, known as the Jessica Lunsford Act, passed the legislature and was signed by the Governor on May 2, 2005. [Ch. 2005-28, Laws of Fla.] The bill had an effective date of September 1, 2005.

The bill amended several statutes relating to sexual predators and sexual offenders, required electronic monitoring of certain probationers who had committed a sexual offense and mandated lifetime imprisonment or lifetime supervision with electronic monitoring for persons convicted of lewd and lascivious molestation of a child under the age of 12. Additionally, section 21 of the act amended section 1012.465, F.S. Prior to this bill, this section had required noninstructional school district employees or contractual personnel who had direct contract with students or had access to or control of school funds to meet level 2 screening requirements as described in s. 1012.32, F.S.¹ The bill expanded this requirement to contractual personnel who are permitted access on school grounds when students are present. The bill defined the term "contractual personnel" to include "any vendor, individual or entity under contract with the school board."

A level 2 screening includes a statewide criminal records check through the Florida Department of Law Enforcement (FDLE) and a federal criminal records check through the Federal Bureau of Investigation (FBI).² Section 1012.32, F.S., provides persons "found through fingerprint processing to have been convicted of a crime involving *moral turpitude* shall not be employed, engaged to provide services, or serve in any position requiring direct contact with students."

A screening required under the Jessica Lunsford Act is accomplished by the contractor submitting his or her fingerprints to school district personnel who submits the fingerprints to FDLE. FDLE then submits the fingerprints to the FBI for the federal check. FDLE sends the results of the state and federal check back to the school district. The school district then determines whether the results indicate that the contractor has been convicted of a crime involving moral turpitude.

¹ Additionally, section 943.04351, F.S. requires that "a state agency or governmental subdivision, prior to making any decision to appoint or employ a person to work, whether for compensation or as a volunteer, at any park, playground, day care center, or other place where children regularly congregate, must conduct a search of that person's name or other identifying information against the registration information regarding sexual predators and sexual offenders maintained by the Department of Law Enforcement".

² See ss. 1012.465(2) and 435.04, F.S.

After the legislative session, school districts and businesses that contract with school districts expressed difficulties in implementing the criminal history screening provisions of the bill. The most common complaints can be characterized as follows:

- Many contractors work in multiple school districts throughout the state and have been required to undergo a separate criminal history check for each school district. Although school districts are authorized to share screening results with other school districts, initially there was no central database to facilitate sharing of the results.
- Contractors claimed that some school districts have charged processing fees for a criminal history screening that are cost prohibitive, particularly if a business has many employees who conduct business in multiple school districts.
- School districts and contractors expressed confusion as to who should be considered contractual personnel and what should be considered school grounds.
- Because there is no statutory definition of the term “moral turpitude”, interpretation is left to the school districts. Contractors have claimed that this results in inconsistency – based on different interpretations of the phrase, a contractor could be permitted to work in one school district and barred from working in another. Further, contractors have complained that they have been barred from working in a school district for what they consider minor criminal offenses or offenses that were committed many years ago.
- Contractors who are required to undergo level 2 checks for their other employment have complained that school districts have required them to undergo an additional screening to be permitted on school grounds when students are present.

FDLE was asked by the Speaker of the House of Representatives and the President of the Senate to implement a system to allow for criminal history information provided to a school district to be shared with other school districts. FDLE developed the Florida Shared School Results (FSSR) system which became available to school districts on September 30, 2005. After a school district requests a criminal history check from FDLE, the department posts the results on a secure website that is accessible to the school districts. Other school districts can then access the results and view the same criminal history record that was received by the original school district. The information is searchable by name, social security number or submitting agency.

Sexual Predator Registration: As of November 17, 2005, there were 5,492 sexual predators in the state registry. Section 775.21, F.S., provides that a person convicted of an enumerated sexual offense must be designated a “sexual predator.” Specifically, a person must be designated a sexual predator if he or she has been convicted of:

1. A capital, life, or first-degree felony violation, or any attempt thereof, of one of the following offenses:
 - a. kidnapping or false imprisonment³ where the victim is a minor and the defendant is not the victim's parent;
 - b. sexual battery;⁴
 - c. lewd or lascivious offenses;⁵
 - d. selling, buying, or transfer of custody of a minor for child pornography;⁶ or
 - e. a violation of a similar law of another jurisdiction.
2. Any felony violation of one of the following offenses where the offender has previously been convicted of or found to have committed, or has pled nolo contendere or guilty to, regardless of adjudication one of the following offenses:
 - a. kidnapping, false imprisonment or luring or enticing a child⁷ where the victim is a minor and the defendant is not the victim's parent,

³ s. 787.01, F.S. or s. 787.02, F.S.,

⁴ See chapter 794, F.S.

⁵ s. 800.04, F.S.

⁶ s. 847.0145, F.S.

⁷ s. 787.025, F.S.

- b. sexual battery;⁸
- c. procuring a person under the age of 18 for prostitution;⁹
- d. lewd or lascivious offenses;
- e. lewd or lascivious battery on an elderly person;¹⁰
- f. promoting sexual performance by a child;¹¹
- g. selling, buying, or transfer of custody of a minor for child pornography; or
- h. a violation of a similar law of another jurisdiction.¹²

If the sexual predator is not in the custody or control of, or under the supervision of, the Department of Corrections (DOC), or is not in the custody of a private correctional facility, and the predator establishes or maintains a residence in this state, the predator must initially register in person at an FDLE office, or at the sheriff's office in the county of residence within 48 hours after establishing permanent or temporary residence.

Within 48 hours of initial registration, a sexual predator who is not incarcerated and who resides in the community, including a predator under DOC supervision, must register at a driver's license office of the DHSMV and present proof of registration, provide specified information, and secure a driver's license, if qualified, or an identification card. Each time a sexual predator's driver's license or identification card is subject to renewal, and within 48 hours after any change in the predator's residence or name, he or she must report in person to a driver's license facility of the DHSMV and is subject to specified registration requirements. This information is provided to FDLE which maintains the statewide registry of all sexual predators and sexual offenders (discussed further below). The department maintains a searchable web-site containing the names and addresses of all sexual predators and offenders as well as a toll-free telephone number.

Registration procedures are also provided for sexual predators who are under federal supervision, in the custody of a local jail, designated as a sexual predator (or another sexual offender designation) in another state and establish or maintain a residence in this state, or are enrolled, employed, or carrying on a vocation at an institution of higher education in this state.

Extensive procedures are provided for notifying communities about certain information relating to sexual predators, much of which is compiled during the registration process. A sexual predator must report in person every six months to the sheriff's office in the county in which he or she resides to reregister.¹³

A sexual predator's failure to comply with registration requirements is a third degree felony.¹⁴ A sexual predator who has been convicted of one of the enumerated offenses when the victim of the offense was a minor is prohibited from working or volunteering at any business, school, day care center, park, playground, or other place where children regularly congregate. A violation of this provision is a third degree felony.¹⁵

Sexual offender registration: As of November 17, 2005, there were 30,583 sexual offenders in the state registry. In very general terms, the distinction between a sexual predator and a sexual offender is based on what offense the person has been convicted of, whether the person has previously been convicted of a sexual offense and the date the offense occurred. Specifically, a sexual offender is a

⁸ Excluded are offenses contained in ss. 794.011(10) and 794.0235, F.S.

⁹ s. 796.03, F.S.

¹⁰ s. 825.1025(2)(b), F.S.

¹¹ s. 827.071, F.S.

¹² Additionally, a person must be designated as a sexual predator if he or she committed one of the offenses listed in a. through h. above and has previously been convicted of the offense of selling or showing obscenity to a minor or using a computer to solicit sexual conduct of or with a minor [ss. 847.0133 or 847.0135, F.S.]

¹³ s. 775.21(8), F.S.

¹⁴ s. 775.21(10), F.S.

¹⁵ S. 775.21(10)(b), F.S.

person who has been convicted of one of the following offenses and has been released on or after October 1, 1997 from the sanction imposed for the offense:

- a. kidnapping, false imprisonment or luring or enticing a child¹⁶ where the victim is a minor and the defendant is not the victim's parent;
- b. sexual battery;¹⁷
- c. procuring a person under the age of 18 for prostitution;¹⁸
- d. lewd or lascivious offenses;
- e. lewd or lascivious battery on an elderly person;¹⁹
- f. promoting sexual performance by a child;²⁰
- g. selling, buying, or transfer of custody of a minor for child pornography;
- h. selling or showing obscenity to a minor;²¹
- i. using a computer to solicit sexual conduct of or with a minor;²²
- j. transmitting child pornography;²³
- k. transmitting material harmful to minors;²⁴
- l. violating of a similar law of another jurisdiction.

A sexual offender is required to report and register in a manner similar to a sexual predator. Failure of a sexual offender to comply with the registration requirements is a third degree felony.

The United States Department of Justice has recently developed the "National Sex Offender Public Registry" - a website that can be used to search the sexual offender registries of all participating states at the same time by entering an individual's name.²⁵ According to the website, by the end of 2006, the registries of all 50 states and the District of Columbia will be searchable in this manner.

Provisions of HB 7117

Driver's license/identification card: The bill amends s. 322.141, F.S., effective August 1, 2006, to provide that all driver's licenses or identification cards issued or reissued to sexual predators or sexual offenders must have on the front of the card the following:

- For a person designated as a sexual predator under s. 775.21, F.S., the marking "775.21, F.S."
- For a person subject to registration as a sexual offender under s. 943.0435, F.S., the marking "943.0435, F.S."

The bill amends s. 322.212, F.S., effective August 15, 2006, to provide that it is unlawful for any person to have in his or her possession a driver's license or identification card upon which the sexual predator or sexual offender markings required by s. 322.141, F.S., are not displayed or have been altered. A violation of this provision will be a third degree felony.²⁶

The bill amends the sexual predator and sexual offender statutes to specify that the driver's license or identification card a predator or offender is required to secure must comply with s. 322.141(3), F.S.

¹⁶ s. 787.025, F.S.

¹⁷ Excluded are offenses contained in ss. 794.011(10) and 794.0235, F.S.

¹⁸ s. 796.03, F.S.

¹⁹ s. 825.1025(2)(b), F.S.

²⁰ s. 827.071, F.S.

²¹ s. 847.0133, F.S.

²² s. 847.0135, F.S.

²³ s. 847.0137, F.S.

²⁴ s. 847.0138, F.S.

²⁵ <http://www.nsopr.gov/>

²⁶ s. 322.

Background screening: As discussed above, the Jessica Lunsford Act, s. 1012.465, F.S., added the requirement that noninstructional school district employees or contractual personnel who are permitted access on school grounds when students are present be required to undergo level 2 screening. The bill amends this section to provide that the following individuals must meet level 2 screening requirements as described in s. 1012.32, F.S.:

1. Noninstructional school district employees who have direct contact with students.
2. Other individuals who are specifically authorized by the school district to perform services for compensation that involve direct contact with students.
3. Noninstructional school district personnel who have access to or control of school funds.
4. Any other individuals who, for compensation, are authorized to have access to or control of school funds.

The bill creates s. 1012.4561, F.S. to provide that an authorized individual who is a sexual predator or sexual offender or who appears on the National Sex Offender Public Registry maintained by the United States Department of Justice shall not be entitled to be present on school grounds. The term "authorized individual" is defined as "any individual who is authorized to have access to school grounds²⁷ for *business or employment purposes* when students are present, other than a school district employee or any other individual referred to in s. 1012.465(1), F.S."²⁸ An authorized individual who is present on school grounds in violation of this provision commits a first degree misdemeanor.

The bill provides that before allowing an authorized individual to have access to school grounds, a contractor²⁹ must provide the school district with certification that the contractor has:

1. For an individual who holds a state driver's license or identification card, examined the individual's driver's license or identification card and confirmed that the driver's license or identification card does not indicate that the person is a sexual predator or subject to registration as a sexual offender; and
2. Checked the individual against the National Sex Offender Public Registry and confirmed that nothing in that registry requires that the individual be denied access to school grounds.

The contractor will be required to make its records supporting the certification available for inspection at the request of the school district. A person who knowingly and willfully violates this section and who holds a professional license under chapter 455 or 465 commits an act constituting grounds for discipline.

Each authorized individual who has been issued a state driver's license or identification card must possess the card at all times while working on school grounds and must show the card to any school district employee upon request. Each authorized individual who has not been issued or does not have

²⁷ The term "school grounds" is defined by the bill as follows:

"School grounds" means the buildings and grounds of any public prekindergarten, kindergarten, elementary school, middle school, junior high school, high school, or secondary school, together with the school district land on which the buildings are located. The term "school grounds" does not include:

1. Any other facilities or locations where school classes or activities may be located or take place;
2. The buildings and grounds of any public prekindergarten, kindergarten, elementary school, middle school, junior high school, high school, or secondary school or contiguous school district land during any time period in which students are not permitted access; or
3. Any building described in this paragraph during any period in which it is used solely as a career or technical center under part IV of chapter 1004.

²⁸ As described above, s. 1012.465(1) will require level 2 criminal history checks for certain individuals.

²⁹ The bill defines the term "contractor" as follows:

"Contractor" means a person or an entity, regardless of form, that is engaged by the school district to provide goods or services and that, in furtherance of such engagement, employs authorized individuals or subcontracts with others who employ authorized individuals. The term "contractor" also includes an authorized individual who is directly engaged by the school district to provide goods or services.

in his or her possession a state driver's license or identification card will be required to submit to a check against the National Sex Offender Public Registry upon request of any school district employee to confirm that nothing in that registry requires that the individual be denied access to school grounds.

Each authorized individual must inform his or her employer or the party with whom he or she is under contract within 48 hours if charged, while he or she is employed or under contract in that capacity, with an offense for which a conviction could lead to the person being designated a sexual predator or subject to registration as a sexual offender.

The bill also authorizes a superintendent, on a case-by-case basis to require any authorized individual to undergo a fingerprint-based background screening and meet level 2 screening requirements as described in s. 1012.32, F.S. A recheck of such authorized individual must be performed once every 3 years. The bill requires that for the initial check, each individual subject to the criminal history check must file a set of fingerprints. Fingerprints will be submitted to FDLE for state processing and to the Federal Bureau of Investigation (FBI) for federal processing. The results of each fingerprint-based check must be reported to the requesting district.

The cost of the check and any re-check may be borne by the district school board, the individual fingerprinted or the individual's employer. Any fee for the initial check and each re-check charged by a district school board may not exceed the sum of fees charged by FDLE, the FBI, and the Department of Education, plus an additional administrative fee specified by the school board, which may not exceed 25 percent of the sum of the other fees specified in this paragraph. Currently, the combined fee for the FDLE and FBI check is \$47 - \$23 for the FDLE check and \$24 for the FBI check.

The bill requires FDLE to implement a system that allows for criminal history record information provided to a school district to be shared with other school districts through a secure website or other electronic means. The bill authorizes FDLE to adopt rules to implement this provision. For any required checks during the 3 year period subsequent to the initial check or recheck, the individual must inform the district school board requiring the check that he or she has already completed a current records check and that district must, without charge to the individual, check the individual's history using the shared system described below.

The bill requires FDLE to retain the fingerprints submitted under this provision in the statewide automated fingerprint identification system, authorizes FDLE to search all arrest fingerprint cards received against the retained fingerprints, and requires the fingerprints to be purged from the statewide system three years from the date they are submitted.

The bill authorizes school boards and FDLE to adopt rules to implement the provisions of the bill.

The bill provides that the newly created s. 1012.4561, F.S., does not apply to law enforcement officers, as defined in s. 943.10, F.S., assigned by their employing agencies to work on school grounds as part of their official duties or first responder personnel responding to a request for assistance. For this purpose, the term "first responder personnel" includes law enforcement officers, as defined in s. 943.10, F.S., emergency medical technicians, paramedics, and firefighters.

The bill provides that no provision of the newly created s. 1012.4561, F.S., shall give rise to any private civil liability, nor will the section be construed to create a private cause of action for monetary damages.

The bill has an effective date of July 1, 2006 except as otherwise provided in the act.

C. SECTION DIRECTORY:

Section 1. Amends s. 322.141, F.S., to require markings on driver's licenses or identification cards of sexual predators and sexual offenders.

Section 2. Amends s. 322.212, F.S., to make it unlawful for person to have in his or her possession driver's license or identification card without required markings.

Section 3. Amends s. 775.21, F.S., to require that driver's license or identification card comply with the requirements of s. 322.141(3), F.S.

Section 4. Amends s. 943.0435, F.S., to require that driver's license or identification card comply with the requirements of s. 322.141(3), F.S.

Section 5. Amends s. 944.607, F.S., to require that driver's license or identification card comply with the requirements of s. 322.141(3), F.S.

Section 6. Amends s. 1012.465, F.S., to specify individuals required to meet level 2 screening requirements.

Section 7. Creates s. 1012.4561, F.S., relating to individuals permitted access to school grounds for business or employment purposes when students are present.

Section 8. Provides effective date of July 1, 2006 except as otherwise expressly provided in the act.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The DHSMV provided two cost estimates to produce and mail the driver's licenses and identification cards. Option 1 includes standard postage to mail the drivers' licenses and identification cards, while Option 2 includes return receipt postage. The bill does not make an appropriation.

	Number of Registered Sexual Predators	3,708
	Number of Registered Sexual Offenders	27,023
	Total	30,731
Option 1	Card Cost \$1.56	\$ 47,940.00
<i>w/ standard postage</i>	Postage (1st Class)	\$ 9,465.00
	Programming	\$ 30,000.00
	Total	\$ 87,405.00
Option 2	Card Cost \$1.56	\$ 47,940.00
<i>w/ return receipt</i>	Postage (Certified/Return receipt)	\$ 133,372.00
	Programming	\$ 30,000.00
	Total	\$ 211,312.00

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill may limit the number of individuals who are required to undergo the state and federal criminal history screening required under the Jessica Lunsford Act.

D. FISCAL COMMENTS:

The bill limits the amount of fees that a school district is permitted to charge for a federal and state criminal history check of a contractor if required by a district superintendent. Currently, the combined fee for the FDLE and FBI check is \$47 - \$23 to FDLE and \$24 to FBI. The bill provides that any fee for a check of state and federal criminal history that is required by a superintendent under the newly created s. 1012.4561, F.S., may not exceed the sum of fees charged by FDLE, the FBI and DOC, plus an additional administrative fee specified by the school board which may not exceed 25 percent of the sum of the other specified fees. Twenty-five percent of \$47 is \$11.25. Therefore the total fee may not exceed \$58.25 (\$47 plus \$11.25).

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill authorizes FDLE to adopt rules to implement a system that allows for criminal history record information provided to a school district to be shared with other school districts. The bill authorizes a school board to adopt rules to implement the provisions of the newly created s. 1012.4561, F.S.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled

2 An act relating to sexual predators and offenders;
3 amending s. 322.141, F.S.; requiring distinctive markings
4 for driver's licenses and identification cards issued to
5 persons who are designated as sexual predators or subject
6 to registration as sexual offenders; amending s. 322.212,
7 F.S.; prohibiting the alteration of sexual predator or
8 sexual offender markings on driver's licenses or
9 identification cards, for which there are criminal
10 penalties; amending s. 775.21, F.S.; requiring sexual
11 predators to obtain a distinctive driver's license or
12 identification card; amending s. 943.0435, F.S.; requiring
13 sexual offenders to obtain a distinctive driver's license
14 or identification card; amending s. 944.607, F.S.;
15 requiring specified offenders who are under the
16 supervision of the Department of Corrections but are not
17 incarcerated to obtain a distinctive driver's license or
18 identification card; amending s. 1012.465, F.S.; revising
19 provisions relating to background screenings of certain
20 noninstructional school district employees and other
21 specified individuals; creating s. 1012.4561, F.S.;
22 providing definitions; prohibiting authorized individuals
23 who are designated as sexual predators, subject to
24 registration as a sexual offenders, or who appear on the
25 National Sex Offender Public Registry from being present
26 on school grounds; providing criminal penalties; requiring
27 authorized individuals working on school grounds to be
28 subject to a check of Florida driver's licenses or

HB 7117

2006

identification cards for the purposes of ascertaining their sexual offender and sexual predator status and checked against the National Sex Offender Public Registry; providing duties for certain authorized individuals; providing penalties; allowing school superintendents on a case-by-case basis to require certain individuals to undergo a fingerprint-based background screening to meet specified standards; providing for submission of fingerprints; providing for fees; requiring creation of an electronic system for sharing screening results among school districts; providing for storage, use, and purging of fingerprints submitted for background checks; providing rulemaking authority to the Department of Law Enforcement; requiring certain individuals to report certain offenses; providing penalties; providing exceptions; providing that no provision of the section shall give rise to private civil liability or create a private cause of action for monetary damages; providing rulemaking authority to school boards; providing effective dates.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Effective August 1, 2006, subsection (3) is added to section 322.141, Florida Statutes, to read:

322.141 Color or markings of certain licenses or identification cards.--

(3) All licenses for the operation of motor vehicles or identification cards originally issued or reissued by the

HB 7117

2006

57 department to persons who are designated as sexual predators
58 under s. 775.21 or subject to registration as sexual offenders
59 under s. 943.0435 shall have on the front of the license or
60 identification card the following:

61 (a) For a person designated as a sexual predator under s.
62 775.21, the marking "775.21, F.S."

63 (b) For a person subject to registration as a sexual
64 offender under s. 943.0435, the marking "943.0435, F.S."

65 Section 2. Effective August 15, 2006, paragraph (c) is
66 added to subsection (5) of section 322.212, Florida Statutes, to
67 read:

68 322.212 Unauthorized possession of, and other unlawful
69 acts in relation to, driver's license or identification card.--

70 (5)

71 (c) It is unlawful for any person to have in his or her
72 possession a driver's license or identification card upon which
73 the sexual predator or sexual offender markings required by s.
74 322.141 are not displayed or have been altered.

75 Section 3. Paragraph (f) of subsection (6) of section
76 775.21, Florida Statutes, is amended to read:

77 775.21 The Florida Sexual Predators Act.--

78 (6) REGISTRATION.--

79 (f) Within 48 hours after the registration required under
80 paragraph (a) or paragraph (e), a sexual predator who is not
81 incarcerated and who resides in the community, including a
82 sexual predator under the supervision of the Department of
83 Corrections, shall register in person at a driver's license
84 office of the Department of Highway Safety and Motor Vehicles

HB 7117

2006

85 and shall present proof of registration. At the driver's license
86 office the sexual predator shall:

87 1. If otherwise qualified, secure a Florida driver's
88 license, renew a Florida driver's license, or secure an
89 identification card. The sexual predator shall identify himself
90 or herself as a sexual predator who is required to comply with
91 this section, provide his or her place of permanent or temporary
92 residence, including a rural route address and a post office
93 box, and submit to the taking of a photograph for use in issuing
94 a driver's license, renewed license, or identification card, and
95 for use by the department in maintaining current records of
96 sexual predators. A post office box shall not be provided in
97 lieu of a physical residential address. If the sexual predator's
98 place of residence is a motor vehicle, trailer, mobile home, or
99 manufactured home, as defined in chapter 320, the sexual
100 predator shall also provide to the Department of Highway Safety
101 and Motor Vehicles the vehicle identification number; the
102 license tag number; the registration number; and a description,
103 including color scheme, of the motor vehicle, trailer, mobile
104 home, or manufactured home. If a sexual predator's place of
105 residence is a vessel, live-aboard vessel, or houseboat, as
106 defined in chapter 327, the sexual predator shall also provide
107 to the Department of Highway Safety and Motor Vehicles the hull
108 identification number; the manufacturer's serial number; the
109 name of the vessel, live-aboard vessel, or houseboat; the
110 registration number; and a description, including color scheme,
111 of the vessel, live-aboard vessel, or houseboat.

HB 7117

2006

2. Pay the costs assessed by the Department of Highway Safety and Motor Vehicles for issuing or renewing a driver's license or identification card as required by this section. The driver's license or identification card issued shall comply with s. 322.141(3).

3. Provide, upon request, any additional information necessary to confirm the identity of the sexual predator, including a set of fingerprints.

The sheriff shall promptly provide to the department the information received from the sexual predator.

Section 4. Subsection (3) of section 943.0435, Florida Statutes, is amended to read:

943.0435 Sexual offenders required to register with the department; penalty.--

(3) Within 48 hours after the report required under subsection (2), a sexual offender shall report in person at a driver's license office of the Department of Highway Safety and Motor Vehicles, unless a driver's license or identification card that complies with the requirements of s. 322.141(3) was previously secured or updated under s. 944.607. At the driver's license office the sexual offender shall:

(a) If otherwise qualified, secure a Florida driver's license, renew a Florida driver's license, or secure an identification card. The sexual offender shall identify himself or herself as a sexual offender who is required to comply with this section and shall provide proof that the sexual offender reported as required in subsection (2). The sexual offender

HB7117

2006

shall provide any of the information specified in subsection (2), if requested. The sexual offender shall submit to the taking of a photograph for use in issuing a driver's license, renewed license, or identification card, and for use by the department in maintaining current records of sexual offenders.

(b) Pay the costs assessed by the Department of Highway Safety and Motor Vehicles for issuing or renewing a driver's license or identification card as required by this section. The driver's license or identification card issued shall comply with s. 322.141(3).

(c) Provide, upon request, any additional information necessary to confirm the identity of the sexual offender, including a set of fingerprints.

Section 5. Subsection (9) of section 944.607, Florida Statutes, is amended to read:

944.607 Notification to Department of Law Enforcement of information on sexual offenders.--

(9) A sexual offender, as described in this section, who is under the supervision of the Department of Corrections but who is not incarcerated shall, in addition to the registration requirements provided in subsection (4), register and obtain a distinctive driver's license or identification card in the manner provided in s. 943.0435(3), (4), and (5), unless the sexual offender is a sexual predator, in which case he or she shall register and obtain a distinctive driver's license or identification card as required under s. 775.21. A sexual offender who fails to comply with the requirements of s. 943.0435 is subject to the penalties provided in s. 943.0435(9).

HB 7117

2006

Section 6. Subsection (1) of section 1012.465, Florida Statutes, is amended to read:

1012.465 Background screening requirements for certain noninstructional school district employees and other specified individuals ~~contractors~~.--

(1) The following individuals ~~Noninstructional school district employees or contractual personnel who are permitted access on school grounds when students are present, who have direct contact with students or who have access to or control of school funds~~ must meet level 2 screening requirements as described in s. 1012.32:--

(a) Noninstructional school district employees who have direct contact with students.

(b) Other individuals who are specifically authorized by the school district to perform services for compensation that involve direct contact with students.

(c) Noninstructional school district personnel who have access to or control of school funds.

(d) Any other individuals who, for compensation, are authorized to have access to or control of school funds.
~~Contractual personnel shall include any vendor, individual, or entity under contract with the school board.~~

Section 7. Section 1012.4561, Florida Statutes, is created to read:

1012.4561 Individuals permitted access to school grounds for business or employment purposes when students are present; exclusions.--

(1) As used in this section, the term:

HB 7117

2006

196 (a) "Authorized individual" means any individual who is
197 authorized to have access to school grounds for business or
198 employment purposes when students are present, other than a
199 school district employee or any other individual referred to in
200 s. 1012.465(1).

201 (b) "Contractor" means a person or an entity, regardless
202 of form, that is engaged by the school district to provide goods
203 or services and that, in furtherance of such engagement, employs
204 authorized individuals or subcontracts with others who employ
205 authorized individuals. The term "contractor" also includes an
206 authorized individual who is directly engaged by the school
207 district to provide goods or services.

208 (c) "School grounds" means the buildings and grounds of
209 any public prekindergarten, kindergarten, elementary school,
210 middle school, junior high school, high school, or secondary
211 school, together with the school district land on which the
212 buildings are located. The term "school grounds" does not
213 include:

214 1. Any other facility or location where school classes or
215 activities may be located or take place;

216 2. The buildings and grounds of any public
217 prekindergarten, kindergarten, elementary school, middle school,
218 junior high school, high school, or secondary school or
219 contiguous school district land during any time period in which
220 students are not permitted access; or

221 3. Any building described in this paragraph during any
222 period in which it is used solely as a career or technical
223 center under part IV of chapter 1004.

HB 7117

2006

(2) An authorized individual who is designated as a sexual predator under s. 775.21, who is subject to registration as a sexual offender under s. 943.0435, or who appears on the National Sex Offender Public Registry maintained by the United States Department of Justice shall not be entitled to be present on school grounds. An authorized individual who is present on school grounds in violation of this subsection commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(3)(a) Before allowing an authorized individual to have access to school grounds, a contractor must provide the school district with certification that the contractor has:

1. For an individual who holds a Florida driver's license or identification card, examined the individual's driver's license or identification card and confirmed that the driver's license or identification card does not have the markings required by s. 322.141, indicating that the person is a sexual predator or subject to registration as a sexual offender.

2. Checked the individual against the National Sex Offender Public Registry and confirmed that nothing in the registry requires that the individual be denied access to school grounds.

The contractor shall make its records supporting the certification available for inspection at the request of the school district.

(b)1. Each authorized individual who has been issued a Florida driver's license or identification card shall possess

HB 7117

2006

252 the card at all times while working on school grounds and shall
253 show it to any school district employee upon request.

254 2. Each authorized individual who has not been issued or
255 does not have in his or her possession a Florida driver's
256 license or identification card shall submit to a check against
257 the National Sex Offender Public Registry upon request of any
258 school district employee to confirm that nothing in that
259 registry requires that the individual be denied access to school
260 grounds.

261 (c) Any person who knowingly and willfully violates this
262 subsection and who holds a professional license under chapter
263 455 commits an act constituting grounds for discipline as
264 described in s. 455.227(1)(a). Any person who knowingly and
265 willfully violates this subsection and who holds a professional
266 license under chapter 456 commits an act constituting grounds
267 for discipline as described in s. 456.072(1)(a).

268 (d) Each authorized individual must inform his or her
269 employer or the party with whom he or she is under contract
270 within 48 hours if charged, while he or she is employed or under
271 contract in that capacity, with an offense for which a
272 conviction could lead to the person being designated as a sexual
273 predator under s. 775.21 or subject to registration as a sexual
274 offender under s. 943.0435. A person who willfully fails to
275 comply with this paragraph commits a felony of the third degree,
276 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

277 (4) On a case-by-case basis, a superintendent may require
278 any authorized individual to undergo a fingerprint-based
279 background screening and meet level 2 screening requirements as

HB 7117

2006

280 described in s. 1012.32. A recheck of such authorized individual
281 shall be performed at least once every 3 years.

282 (a) For the initial check of each individual subject to
283 the background criminal history check requirements in this
284 subsection, the individual shall file a complete set of
285 fingerprints. Fingerprints shall be submitted to the Department
286 of Law Enforcement for state processing and to the Federal
287 Bureau of Investigation for federal processing.

288 (b) The results of each fingerprint-based background
289 screening shall be reported to the requesting district.

290 (c) The cost of the initial check of state and federal
291 criminal history and a recheck every 3 years may be borne by the
292 district school board, the individual fingerprinted, or the
293 individual's employer. Any fee for the initial check of state
294 and federal criminal history and a recheck every 3 years per
295 person fingerprinted charged by a district school board may not
296 exceed the sum of fees charged by the Department of Law
297 Enforcement, the Federal Bureau of Investigation, and the
298 Department of Education, plus an additional administrative fee
299 specified by the school board, which shall not exceed 25 percent
300 of the sum of the other fees specified in this paragraph.

301 (d) For any required checks during the 3-year period
302 subsequent to the initial check or the 3-year period subsequent
303 to a recheck, the individual shall inform the district school
304 board requiring the check that he or she has already completed a
305 current records check and that district shall, without charge to
306 the individual, check the individual's history using the shared
307 system provided in subsection (5).

HB 7117

2006

308 (e) An authorized individual who is subject to the case-
309 by-case screening provisions of this subsection must inform the
310 contractor and the school district within 48 hours if he or she
311 is charged with any offense that would require him or her to be
312 barred from school grounds under subsection (2). A person who
313 willfully fails to comply with this paragraph commits a felony
314 of the third degree, punishable as provided in s. 775.082, s.
315 775.083, or s. 775.084.

316 (5) (a) The Department of Law Enforcement shall implement a
317 system that allows for criminal history record information
318 provided to a school district to be shared with other school
319 districts through a secure website or other electronic means.

320 (b) As authorized by law, the Department of Law
321 Enforcement shall retain the fingerprints submitted by the
322 school districts pursuant to this subsection to the Department
323 of Law Enforcement for a criminal history background screening
324 in a manner provided by rule and enter the fingerprints in the
325 statewide automated fingerprint identification system authorized
326 by s. 943.05(2)(b). The fingerprints shall thereafter be
327 available for all purposes and uses authorized for arrest
328 fingerprint cards entered into the statewide automated
329 fingerprint identification system under s. 943.051.

330 (c) As authorized by law, the Department of Law
331 Enforcement shall search all arrest fingerprint cards received
332 under s. 943.051 against the fingerprints retained in the
333 statewide automated fingerprint identification system under
334 paragraph (b).

335 (d) School districts may participate in the search process
336 described in this subsection by payment of an annual fee to the
337 Department of Law Enforcement.

338 (e) A fingerprint retained pursuant to this subsection
339 shall be purged from the automated fingerprint identification
340 system 3 years from the date the fingerprint was initially
341 submitted. The Department of Law Enforcement shall set the
342 amount of the annual fee to be imposed upon each participating
343 agency for performing these searches and establishing the
344 procedures for the retention of fingerprints and the
345 dissemination of search results. The fee may be borne as
346 provided by law. Fees may be waived or reduced by the executive
347 director of the Department of Law Enforcement for good cause
348 shown.

349 (f) The Department of Law Enforcement may adopt rules
350 under ss. 120.536(1) and 120.54 to implement the provisions of
351 this subsection.

352 (6) This section does not apply to law enforcement
353 officers, as defined in s. 943.10, assigned by their employing
354 agencies to work on school grounds as part of their official
355 duties or first responder personnel responding to a request for
356 assistance. For purposes of this subsection, the term "first
357 responder personnel" includes law enforcement officers, as
358 defined in s. 943.10, emergency medical technicians, paramedics,
359 and firefighters.

360 (7) No provision of this section shall give rise to any
361 private civil liability, nor shall this section be construed to
362 create a private cause of action for monetary damages.

HB 7117

2006

363 (8) A school board may adopt rules under ss. 120.536(1)
 364 and 120.54 to implement the provisions of this section.
 365 Section 8. Except as otherwise expressly provided in this
 366 act, this act shall take effect July 1, 2006.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 01

Bill No. 7117

COUNCIL/COMMITTEE ACTION

ADOPTED ___ (Y/N)
ADOPTED AS AMENDED ___ (Y/N)
ADOPTED W/O OBJECTION ___ (Y/N)
FAILED TO ADOPT ___ (Y/N)
WITHDRAWN ___ (Y/N)
OTHER _____

Council/Committee hearing bill: Education Appropriations
Committee

Representative Dean offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Effective August 1, 2006, subsection (3) is
added to section 322.141, Florida Statutes, to read:

322.141 Color or markings of certain licenses or
identification cards; procedures for sexual offenders and
predators to obtain marked licenses or identification cards.--

(3) All licenses for the operation of motor vehicles or
identification cards originally issued or reissued by the
department to persons who are designated as sexual predators
under s. 775.21 or subject to registration as sexual offenders
under s. 943.0435 or s. 944.607 shall have on the front of the
license or identification card the following:

(a) For a person designated as a sexual predator under s.
775.21, the marking "775.21, F.S."

(b) For a person subject to registration as a sexual
offender under s. 943.0435 or s. 944.607, the marking "943.0435,
F.S."

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 01

23 (c) Each sexual predator under s. 775.21 or sexual
24 offender under s. 943.0435 or s. 944.607 shall report to the
25 department during the month of his or her reregistration
26 requirement pursuant to s. 775.21(8), s. 943.0435(14), or s.
27 944.607(13) to obtain a marked driver's license or
28 identification card as required under this subsection unless he
29 or she previously secured such a marked driver's license or
30 identification card.

31 (d) Notwithstanding paragraph (c), sexual predators under
32 s. 775.21 and sexual offenders under s. 943.0435 or s. 944.607
33 whose birth month is January or July must report during the
34 month of August 2006, to the sheriff's office in the county in
35 which they reside or, if they have no permanent or temporary
36 residence, the county in which they are located, to receive
37 their marked driver's license or identification card as required
38 by s. 322.141(3). This paragraph expires January 1, 2007.

39 Section 2. Paragraph (c) is added to subsection (5) of
40 section 322.212, Florida Statutes, to read:

41 322.212 Unauthorized possession of, and other unlawful
42 acts in relation to, driver's license or identification card.--

43 (5)

44 (c) It is unlawful for any person on or after January 1,
45 2007, to knowingly have in his or her possession a driver's
46 license or identification card upon which the sexual predator or
47 sexual offender markings required by s. 322.141(3) are not
48 displayed or have been altered.

49 Section 3. Paragraph (f) of subsection (6) of section
50 775.21, Florida Statutes, is amended to read:

51 775.21 The Florida Sexual Predators Act.--

52 (6) REGISTRATION.--

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 01

53 (f) Within 48 hours after the registration required under
54 paragraph (a) or paragraph (e), a sexual predator who is not
55 incarcerated and who resides in the community, including a
56 sexual predator under the supervision of the Department of
57 Corrections, shall register in person at a driver's license
58 office of the Department of Highway Safety and Motor Vehicles
59 and shall present proof of registration. At the driver's license
60 office the sexual predator shall:

61 1. If otherwise qualified, secure a Florida driver's
62 license, renew a Florida driver's license, or secure an
63 identification card. The sexual predator shall identify himself
64 or herself as a sexual predator who is required to comply with
65 this section, provide his or her place of permanent or temporary
66 residence, including a rural route address and a post office
67 box, and submit to the taking of a photograph for use in issuing
68 a driver's license, renewed license, or identification card, and
69 for use by the department in maintaining current records of
70 sexual predators. A post office box shall not be provided in
71 lieu of a physical residential address. If the sexual predator's
72 place of residence is a motor vehicle, trailer, mobile home, or
73 manufactured home, as defined in chapter 320, the sexual
74 predator shall also provide to the Department of Highway Safety
75 and Motor Vehicles the vehicle identification number; the
76 license tag number; the registration number; and a description,
77 including color scheme, of the motor vehicle, trailer, mobile
78 home, or manufactured home. If a sexual predator's place of
79 residence is a vessel, live-aboard vessel, or houseboat, as
80 defined in chapter 327, the sexual predator shall also provide
81 to the Department of Highway Safety and Motor Vehicles the hull
82 identification number; the manufacturer's serial number; the
83 name of the vessel, live-aboard vessel, or houseboat; the

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 01

84 registration number; and a description, including color scheme,
85 of the vessel, live-aboard vessel, or houseboat.

86 2. Pay the costs assessed by the Department of Highway
87 Safety and Motor Vehicles for issuing or renewing a driver's
88 license or identification card as required by this section. The
89 driver's license or identification card issued shall comply with
90 s. 322.141(3).

91 3. Provide, upon request, any additional information
92 necessary to confirm the identity of the sexual predator,
93 including a set of fingerprints.

94
95 The sheriff shall promptly provide to the department the
96 information received from the sexual predator.

97 Section 4. Subsection (3) of section 943.0435, Florida
98 Statutes, is amended to read:

99 943.0435 Sexual offenders required to register with the
100 department; penalty.--

101 (3) Within 48 hours after the report required under
102 subsection (2), a sexual offender shall report in person at a
103 driver's license office of the Department of Highway Safety and
104 Motor Vehicles, unless a driver's license or identification card
105 that complies with the requirements of s. 322.141(3) was
106 previously secured or updated under s. 944.607. At the driver's
107 license office the sexual offender shall:

108 (a) If otherwise qualified, secure a Florida driver's
109 license, renew a Florida driver's license, or secure an
110 identification card. The sexual offender shall identify himself
111 or herself as a sexual offender who is required to comply with
112 this section and shall provide proof that the sexual offender
113 reported as required in subsection (2). The sexual offender
114 shall provide any of the information specified in subsection

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 01

115 (2), if requested. The sexual offender shall submit to the
116 taking of a photograph for use in issuing a driver's license,
117 renewed license, or identification card, and for use by the
118 department in maintaining current records of sexual offenders.

119 (b) Pay the costs assessed by the Department of Highway
120 Safety and Motor Vehicles for issuing or renewing a driver's
121 license or identification card as required by this section. The
122 driver's license or identification card issued shall comply with
123 s. 322.141(3).

124 (c) Provide, upon request, any additional information
125 necessary to confirm the identity of the sexual offender,
126 including a set of fingerprints.

127 Section 5. Subsection (9) of section 944.607, Florida
128 Statutes, is amended to read:

129 944.607 Notification to Department of Law Enforcement of
130 information on sexual offenders.--

131 (9) A sexual offender, as described in this section, who
132 is under the supervision of the Department of Corrections but
133 who is not incarcerated shall, in addition to the registration
134 requirements provided in subsection (4), register and obtain a
135 distinctive driver's license or identification card in the
136 manner provided in s. 943.0435(3), (4), and (5), unless the
137 sexual offender is a sexual predator, in which case he or she
138 shall register and obtain a distinctive driver's license or
139 identification card as required under s. 775.21. A sexual
140 offender who fails to comply with the requirements of s.
141 943.0435 is subject to the penalties provided in s. 943.0435(9).

142 Section 6. Paragraph (g) of subsection (12) of section
143 1002.33, Florida Statutes, is amended to read:

144 1002.33 Charter schools.--

145 (12) EMPLOYEES OF CHARTER SCHOOLS.--

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 01

(g) A charter school shall employ or contract with employees who have undergone background screening as required under ~~provided in~~ s. 1012.32. Members of the governing board of the charter school shall also undergo background screening in a manner similar to that required under ~~provided in~~ s. 1012.32.

Section 7. Paragraph (c) of subsection (7) of section 1003.63, Florida Statutes, is amended to read:

1003.63 Deregulated public schools pilot program.--

(7) EXEMPTION FROM STATUTES.--

(c) A deregulated public school shall employ or contract with employees who have been fingerprinted as required under ~~provided in~~ s. 1012.32.

Section 8. Section 1012.32, Florida Statutes, is amended to read:

1012.32 Qualifications of personnel; background screening requirement.--

(1) To be eligible for appointment in any position in any district school system, a person shall be of good moral character; shall have attained the age of 18 years, if he or she is to be employed in an instructional capacity; and shall, when required by law, hold a certificate or license issued under rules of the State Board of Education or the Department of Children and Family Services, except when employed pursuant to s. 1012.55 or under the emergency provisions of s. 1012.24. Previous residence in this state shall not be required in any school of the state as a prerequisite for any person holding a valid Florida certificate or license to serve in an instructional capacity.

(2) (a) Background screening is required of instructional and noninstructional personnel who are hired or contracted to fill positions in any district school system and of other

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 01

persons authorized by the school district to perform services
for compensation as follows:

1. ~~(a)~~ Instructional and noninstructional personnel who are
hired or contracted to fill positions ~~requiring direct contact~~
~~with students~~ in any district school system or university lab
school shall, upon employment or engagement to provide services,
undergo background screening ~~as required~~ under s. 1012.465 or s.
1012.56, whichever is applicable.

2. ~~(b)~~ Instructional and noninstructional personnel who are
hired or contracted to fill positions in any charter school and
members of the governing board of any charter school, in
compliance with s. 1002.33(12)(g), shall, upon employment,
engagement of services, or appointment, undergo background
screening ~~as required~~ under s. 1012.465 or s. 1012.56, whichever
is applicable, ~~by filing with the district school board for the~~
~~school district in which the charter school is located a~~
~~complete set of fingerprints taken by an authorized law~~
~~enforcement agency or an employee of the school or school~~
~~district who is trained to take fingerprints.~~

3. ~~(c)~~ Instructional and noninstructional personnel who are
hired or contracted to fill positions ~~requiring direct contact~~
~~with students~~ in an alternative school that operates under
contract with a district school system shall, upon employment or
engagement to provide services, undergo background screening as
~~required~~ under s. 1012.465 or s. 1012.56, whichever is
applicable, ~~by filing with the district school board for the~~
~~school district to which the alternative school is under~~
~~contract a complete set of fingerprints taken by an authorized~~
~~law enforcement agency or an employee of the school or school~~
~~district who is trained to take fingerprints.~~

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 01

207 ~~4.(d)~~ Student teachers, persons participating in a field
208 experience pursuant to s. 1004.04(6) or s. 1004.85, and persons
209 participating in a short-term experience as a teacher assistant
210 pursuant to s. 1004.04(10) in any district school system, lab
211 school, or charter school shall, upon engagement to provide
212 services, undergo background screening ~~as required~~ under s.
213 1012.56.

214 (b)1. Background screening shall be initiated by filing
215 with the district school board for the school district in which
216 the school, charter school, or lab school is located or to which
217 the alternative school is under contract a complete set of
218 fingerprints taken by an individual authorized to take
219 fingerprints on behalf of an authorized law enforcement agency,
220 a private service provider, or the school or school district.

221 2. Fingerprints required for a background screening shall
222 be submitted to the Department of Law Enforcement for state
223 processing and to the Federal Bureau of Investigation for
224 national federal processing. The Department of Law Enforcement
225 shall invoice the department for the fingerprints submitted each
226 month. The school districts shall screen background results to
227 determine if an applicant meets licensure or employment
228 requirements. Persons subject to this subsection found through
229 fingerprint processing to have been convicted of a crime
230 involving moral turpitude shall not be employed, engaged to
231 provide services, or serve in any position requiring direct
232 contact with students. Probationary persons subject to this
233 subsection terminated because of their criminal record have the
234 right to appeal such decisions.

235 3. The cost of the background screening may be borne by
236 the district school board, the charter school, the employee, the
237 contractor, or a person subject to this subsection.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 01

(c) Persons subject to this subsection found through fingerprint processing to have been convicted of a crime involving moral turpitude shall not be employed, engaged to provide services, or serve in any position requiring direct contact with students. Probationary persons subject to this subsection terminated because of their criminal record have the right to appeal such decisions.

(3) (a) ~~Beginning July 1, 2004,~~ All fingerprints submitted to the Department of Law Enforcement as required by subsection (2) shall be retained by the Department of Law Enforcement in a manner provided by rule and entered in the statewide automated fingerprint identification system authorized by s. 943.05(2)(b). Such fingerprints shall thereafter be available for all purposes and uses authorized for arrest fingerprint cards entered in the statewide automated fingerprint identification system pursuant to s. 943.051.

(b) ~~Beginning December 15, 2004,~~ The Department of Law Enforcement shall search all arrest fingerprint cards received under s. 943.051 against the fingerprints retained in the statewide automated fingerprint identification system under paragraph (a). Any arrest record that is identified with the retained fingerprints of a person subject to the background screening under this section shall be reported to the employing or contracting school district or the school district with which the person is affiliated. Each school district is required to participate in this search process by payment of an annual fee to the Department of Law Enforcement and by informing the Department of Law Enforcement of any change in the affiliation, employment, or contractual status or place of affiliation, employment, or contracting of individuals ~~its instructional and noninstructional personnel~~ whose fingerprints are retained under

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 01

paragraph (a). The Department of Law Enforcement shall adopt a rule setting the amount of the annual fee to be imposed upon each school district for performing these searches and establishing the procedures for the retention of ~~instructional and noninstructional personnel~~ fingerprints and the dissemination of search results. The fee may be borne by the district school board, the contractor, or the person fingerprinted.

(c) Personnel whose fingerprints are not retained by the Department of Law Enforcement under paragraphs (a) and (b) are required to be refingerprinted and must meet the applicable level 2 screening standards requirements as described in this section upon reemployment or reengagement to provide services in order to comply with the requirements of this subsection.

(4) For each person subject to background screening under this section who is required by law to be rescreened periodically, the district school board shall request the Department of Law Enforcement to forward the person's fingerprints for rescreening purposes to the Federal Bureau of Investigation for national processing. If the person's fingerprints were not retained by the Department of Law Enforcement after the initial screening, the person must file a complete set of fingerprints. Upon submission of fingerprints for this purpose, the district school board shall request the Department of Law Enforcement to forward the fingerprints to the Federal Bureau of Investigation for national processing, and the fingerprints shall be retained by the Department of Law Enforcement under paragraphs (3) (a) and (b). The cost of the rescreening may be borne by the district school board, the charter school, the employee, the contractor, or any other person subject to rescreening as specified in this subsection.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 01

Section 9. Section 1012.465, Florida Statutes, is amended to read:

1012.465 Background screening requirements for certain noninstructional school district employees and other specified individuals ~~contractors~~.--

(1) For purposes of s. 1012.32, the following individuals ~~Noninstructional school district employees or contractual personnel who are permitted access on school grounds when students are present, who have direct contact with students or who have access to or control of school funds~~ must meet the level 2 screening standards in s. 435.04: requirements as described in s. 1012.32.

(a) Noninstructional school district employees who have direct, unsupervised contact with students or who have access to or control of school funds.

(b) Other individuals who are authorized by the school district to perform services for compensation and that involve access to or control of school funds.

(c) Other individuals who are authorized by the school district to perform services for compensation that involve direct, unsupervised contact with students. This paragraph does not apply to any individual who, by law due to the nature of his or her occupation or business, is required to submit to a state and national criminal history check for licensing or other purposes, if such license or other certificate is current and in good standing and the individual submits proof of good standing to the school district. ~~Contractual personnel shall include any vendor, individual, or entity under contract with the school board.~~

(2) The Department of Law Enforcement shall implement a system that allows for criminal history record information

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 01

provided under paragraph (1)(c) to a school district to be shared with other school districts through a secure website or other electronic means.

(3) An individual subject to paragraph (1)(c) shall inform a school district if he or she has had a criminal history check in another school district within the last 5 years. If he or she has had such a check, the school district shall verify the results of the contractor's criminal history check using the shared system implemented under paragraph (2). The school district shall not charge the individual a fee for verifying the results of his or her criminal history check.

~~(4)(a)-(2) In accordance with s. 1012.32(4), every 5 years following employment or entry into a contract in a capacity described in subsection (1), each person who is so employed or under contract with the school district must meet the level 2 screening standards of s. 435.04 requirements as described in s. 1012.32, at which time the school district shall request the Department of Law Enforcement to forward the fingerprints to the Federal Bureau of Investigation for the level 2 screening. If, for any reason following employment or entry into a contract in a capacity described in subsection (1), the fingerprints of a person who is so employed or under contract with the school district are not retained by the Department of Law Enforcement under s. 1012.32(3)(a) and (b), the person must file a complete set of fingerprints with the district school superintendent of the employing or contracting school district. Upon submission of fingerprints for this purpose, the school district shall request the Department of Law Enforcement to forward the fingerprints to the Federal Bureau of Investigation for the level 2 screening, and the fingerprints shall be retained by the Department of Law Enforcement under s. 1012.32(3)(a) and (b). The cost of the~~

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 01

~~state and federal criminal history check required by level 2 screening may be borne by the district school board, the contractor, or the person fingerprinted.~~

(b) Under penalty of perjury, each person who is employed or under contract in a capacity described in subsection (1) must agree to inform his or her employer or the party with whom he or she is under contract within 48 hours if convicted of any disqualifying offense while he or she is employed or under contract in that capacity.

~~(5)-(3)~~ If it is found that a person who is employed or under contract in a capacity described in subsection (1) does not meet the level 2 screening standards of s. 435.04 requirements, the person shall be immediately suspended from working in that capacity and shall remain suspended until final resolution of any appeals.

Section 10. Section 1012.4561, Florida Statutes, is created to read:

1012.4561 Contractors and contract workers having access to school grounds when students are present; exclusions.--

(1) As used in this section, the term:

(a) "Contractor" means a person who is engaged by the school district to provide goods or services for compensation that do not involve direct, unsupervised contact with students and who employs contract workers or subcontracts with a person who employs contract workers to provide such goods or services. "Contractor" also means an individual who is engaged by a school district to provide such goods or services for compensation.

(b) "Contract worker" means a contractor or any individual, other than an individual described in s. 1012.465(1) or s. 1012.56, who has access to school grounds for business or

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 01

employment purposes of a contractor for compensation when students are present.

(c) "School grounds" means the buildings and grounds of any public prekindergarten, kindergarten, elementary school, middle school, junior high school, high school, or secondary school, together with the school district land on which the buildings are located. The term "school grounds" does not include:

1. Any other facility or location where school classes or activities may be located or take place;

2. Any buildings or grounds described in this paragraph during any time period in which students are not permitted access; or

3. Any building described in this paragraph during any period in which it is used as an adult, career, or technical center under part IV of chapter 1004.

(2) A contract worker who is designated as a sexual predator under s. 775.21, who is subject to registration as a sexual offender under s. 943.0435, or who appears on the National Sex Offender Public Registry maintained by the United States Department of Justice may not be on school grounds. A contract worker who is present on school grounds in violation of this subsection commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(3)(a) Before allowing a contract worker to have access to school grounds, a contractor must provide the school district with certification that the contractor has:

1. For an individual who holds a Florida driver's license or identification card, examined the contract worker's license or identification card and confirmed that it does not have the markings required by s. 322.141(3). The requirements of this

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 01

subparagraph do not apply to certifications made before January 1, 2007.

2. Checked and confirmed that the individual is not on the National Sex Offender Public Registry.

The contractor shall make its records supporting the certification available for inspection at the request of a school district employee.

(b)1. Each contract worker who has been issued a Florida driver's license or identification card shall possess the card at all times while working on school grounds and shall show it to any school district employee upon request.

2. Each contract worker who has not been issued or does not have in his or her possession a Florida driver's license or identification card shall submit to a check against the National Sex Offender Public Registry upon the request of any school district employee.

(c) Any person who knowingly and willfully violates this subsection and who holds a professional license under chapter 455 commits an act constituting grounds for discipline as described in s. 455.227(1)(a). Any person who knowingly and willfully violates this subsection and who holds a professional license under chapter 456 commits an act constituting grounds for discipline as described in s. 456.072(1)(a).

(d) An contract worker must inform the contractor within 48 hours if he or she is arrested for an offense for which a conviction could lead to the person being designated as a sexual predator under s. 775.21 or subject to registration as a sexual offender under s. 943.0435. A person who willfully fails to comply with this paragraph commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 01

454 (4) This section does not apply to law enforcement
455 officers, as defined in s. 943.10, assigned by their employing
456 agencies to work on school grounds as part of their official
457 duties or first responder personnel responding to a request for
458 assistance. For purposes of this subsection, the term "first
459 responder personnel" includes law enforcement officers, as
460 defined in s. 943.10, emergency medical technicians, paramedics,
461 and firefighters.

462 (5) This section may not give rise to any private civil
463 liability nor be construed to create a private cause of action
464 for monetary damages.

465 (6) A school board may adopt rules under ss. 120.536(1)
466 and 120.54 to implement the provisions of this section.

467 Section 11. Subsection (9) of section 1012.56, Florida
468 Statutes, is amended to read:

469 1012.56 Educator certification requirements.--

470 (9) BACKGROUND SCREENING REQUIRED, INITIALLY AND
471 PERIODICALLY.--

472 (a) For purposes of s. 1012.32, each person who seeks
473 certification under this chapter must meet the level 2 screening
474 standards of s. 435.04 requirements as described in s. 1012.32
475 unless a level 2 screening has been conducted by a district
476 school board or the Department of Education within 12 months
477 before the date the person initially obtains certification under
478 this chapter, the results of which are submitted to the district
479 school board or to the Department of Education.

480 (b)1. A person may not receive a certificate under this
481 chapter until the level 2 screening under s. 435.04 has been
482 completed and the results have been submitted to the Department
483 of Education or to the district school superintendent of the
484 school district that employs the person.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 01

485 2. In accordance with s. 1012.32(4), every 5 years after
486 obtaining initial certification, each person who is required to
487 be certified under this chapter must meet the level 2 screening
488 standards of s. 435.04 requirements as described in s. 1012.32,
489 ~~at which time the school district shall request the Department~~
490 ~~of Law Enforcement to forward the fingerprints to the Federal~~
491 ~~Bureau of Investigation for the level 2 screening. If, for any~~
492 ~~reason after obtaining initial certification, the fingerprints~~
493 ~~of a person who is required to be certified under this chapter~~
494 ~~are not retained by the Department of Law Enforcement under s.~~
495 ~~1012.32(3)(a) and (b), the person must file a complete set of~~
496 ~~fingerprints with the district school superintendent of the~~
497 ~~employing school district. Upon submission of fingerprints for~~
498 ~~this purpose, the school district shall request the Department~~
499 ~~of Law Enforcement to forward the fingerprints to the Federal~~
500 ~~Bureau of Investigation for the level 2 screening, and the~~
501 ~~fingerprints shall be retained by the Department of Law~~
502 ~~Enforcement under s. 1012.32(3)(a) and (b). The cost of the~~
503 ~~state and federal criminal history check required by level 2~~
504 ~~screening may be borne by the district school board or the~~
505 ~~employee.~~

506 3. Under penalty of perjury, each person who is certified
507 under this chapter must agree to inform his or her employer
508 within 48 hours if convicted of any disqualifying offense while
509 he or she is employed in a position for which such certification
510 is required.

511 (c) If it is found under s. 1012.796 that a person who is
512 employed in a position requiring certification under this
513 chapter does not meet the level 2 screening standards of s.
514 435.04 requirements, the person's certification shall be

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 01

515 immediately revoked or suspended and he or she shall be
516 immediately suspended from the position requiring certification.

517 Section 12. The sum of \$30,000 is appropriated from the
518 Highway Safety Operating Trust Fund to the Department of Highway
519 Safety and Motor Vehicles for the 2006-2007 fiscal year for
520 computer programming costs related to this act.

521 Section 13. Except as otherwise expressly provided in this
522 act, this act shall take effect July 1, 2006.

523
524 ===== T I T L E A M E N D M E N T =====

525 Remove the entire title and insert:

526 A bill to be entitled

527 An act relating to sexual predators and offenders;
528 amending s. 322.141, F.S.; requiring distinctive markings
529 for driver's licenses and identification cards issued to
530 persons who are designated as sexual predators or subject
531 to registration as sexual offenders; providing procedures
532 for offenders to obtain such licenses or identification
533 cards; providing for initial issuance; providing for
534 future repeal of a specified provision; amending s.
535 322.212, F.S.; prohibiting the alteration of sexual
536 predator or sexual offender markings on driver's licenses
537 or identification cards; providing criminal penalties;
538 amending s. 775.21, F.S.; requiring sexual predators to
539 obtain a distinctive driver's license or identification
540 card; amending s. 943.0435, F.S.; requiring sexual
541 offenders to obtain a distinctive driver's license or
542 identification card; amending s. 944.607, F.S.; requiring
543 specified offenders who are under the supervision of the
544 Department of Corrections but are not incarcerated to
545 obtain a distinctive driver's license or identification

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 01

card; amending ss. 1002.33 and 1003.63, F.S.; revising cross-references; amending s. 1012.32, F.S.; revising provisions relating to background screening of school district personnel; revising provisions relating to fingerprints; providing procedures for periodic rescreening of certain personnel; amending s. 1012.465, F.S.; revising provisions relating to background screenings of certain noninstructional school district employees and other specified individuals; revising provisions relating to periodic rescreening of certain persons; creating s. 1012.4561, F.S.; providing definitions; prohibiting contract workers who are designated as sexual predators, subject to registration as a sexual offenders, or who appear on the National Sex Offender Public Registry from being present on school grounds; providing criminal penalties; requiring contract workers working on school grounds to be subject to a check of Florida driver's licenses or identification cards for the purposes of ascertaining their sexual offender and sexual predator status and checked against the National Sex Offender Public Registry; providing duties for certain contract workers; providing penalties; requiring certain individuals to report certain offenses; providing penalties; providing exceptions; providing that no provision of the section shall give rise to private civil liability or create a private cause of action for monetary damages; providing rulemaking authority to school boards; amending s. 1012.56, F.S.; revising provisions relating to background screening for educator certification; revising provisions relating to periodic rescreening of such

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 01

576 persons; providing an appropriation; providing effective
577 dates.